ASSEMBLY BILL No. 719

Introduced by Assembly Member DeVore
(Principal coauthor: Assembly Member La Malfa)

February 22, 2007

An act to add Chapter 5.5 (commencing with Section 25450) to Division 15 of, and to repeal Section 25524.2 of, the Public Resources Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 719, as introduced, DeVore. Energy: electrical generation: zero carbon dioxide emissions.

Existing law prohibits land use in the state for nuclear fission thermal powerplants or, where applicable, the plants from being certified by the State Energy Resources Conservation and Development Commission, except for certain existing plants, until the commission makes a finding regarding the existance of an aproved and demonstrated technology or means for the disposal of high-level nuclear waste. The commission is also required to perform certain other duties with regard to nuclear fission thermal powerplants.

This bill would create the California Zero Carbon Dioxide Emission Electrical Generation Act of 2007. The bill would repeal that prohibition regarding permitting and certifying nuclear fission thermal powerplants, along with certain other duties of the commission with regard to nuclear fission thermal powerplants.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 5.5 (commencing with Section 25450) is added to Division 15 of the Public Resources Code, to read:

Chapter 5.5. California Zero Carbon Dioxide Emission Electrical Generation Act of 2007

25450. This chapter shall be known and may be cited as the California Zero Carbon Dioxide Emission Electrical Generation Act of 2007.

25450.1. The Legislature finds and declares all of the following:

(a) Efforts to generate significant amounts of zero carbon dioxide emitting electrical power at a cost that California consumers and industry can afford and with the reliability they require will be severely at risk unless modern, clean, efficient, and safe commercial nuclear power is added to the mix.

(b) When doubts arose about the safety of commercial nuclear power and effective strategies for long-term storage of used nuclear power materials, California led the nation in adopting measures to ensure the safety of the public and of the environment.

(c) These measures stopped further construction of commercial nuclear powerplants in California in the mid-1980s. Today, four nuclear power units at two sites produce more than 4,300 megawatts (MW) of power for the California electrical grid or about 16 percent of California's energy needs. This power is produced completely free of any carbon dioxide emissions, and nuclear power is credited as a zero-emitting source of greenhouse gases, including, but not limited to, carbon dioxide.

(d) While domestic commercial nuclear power plan construction came to a halt in the United States, other nations were busy building new, state-of-the-art nuclear powerplants in the 1980s, largely with the assistance of United States technology, which has advanced considerably since the powerplant designs of the 1970s. Modern commercial nuclear powerplant designs feature 10 times fewer moving parts and are 1,000 times less likely to fail than the powerplant designs of 30 years ago.

(e) Other states and nations produce far more zero carbon dioxide emission electricity than does California largely due to the nuclear power. Nuclear power produces 72 percent of electricity

in Vermont, more than one-half of the electricity in New Jersey and South Carolina, 79 percent of the electrical power in France, 56 percent in Belgium, 47 percent in Sweden, 45 percent in the Republic of Korea, and 35 percent in Japan.

(f) Current California law prohibits the permitting of any new commercial nuclear powerplants until an approved means of disposal of high-level nuclear waste becomes available. With federal efforts well underway to provide an approved means of high-level nuclear waste disposal, and given that timelines for nuclear powerplant design, permitting, construction, on line operation, and first refueling would likely be in excess of 10 years, by the time a powerplant would be ready for operation, an approved high-level nuclear waste disposal means will be available.

(g) The federal Energy Policy Act of 2005 (42 U.S.C. Sec. 15801 et seq.) passed with bipartisan support with a wide range of measures, including loan guarantees, production tax credits, and investment protection for delays beyond the builder's control to encourage the construction of new nuclear powerplants.

(h) If the state's permitting authorities are required to wait until high-level nuclear waste disposal means are available before issuing a permit for a new commercial nuclear powerplant, other states will be the first in line to build new, modern, and highly safe nuclear powerplants, delaying the availability of this large-scale and reliable source of zero carbon dioxide emission electricity.

(i) To exercise a global leadership role in the generation of zero carbon dioxide emission electricity, California must encourage the construction of new powerplants capable of reliably producing large quantities of additional electricity. This added electrical production, if the power produced is reasonably priced, will power vehicles, industry, and homes. This will keep California both clean and competitive and on track to achieve the 2020 statewide limit on emissions established in Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

SEC. 2. Section 25524.2 of the Public Resources Code is repealed.

~~25524.2. Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, no nuclear fission thermal powerplant, including any to which this chapter does not otherwise~~

~~apply, but excepting those exempted herein, shall be permitted land use in the state, or where applicable, be certified by the commission until both of the following conditions have been met:~~

~~(a) The commission finds that there has been developed and that the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level nuclear waste.~~

~~(b) (1) The commission has reported its findings and the reasons therefor pursuant to paragraph (a) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the commission made pursuant to subdivision (a).~~

~~(2) A resolution of disaffirmance shall set forth the reasons for the action and shall provide, to the extent possible, guidance to the commission as to an appropriate method of bringing the commission's findings into conformance with subdivision (a).~~

~~(3) If a disaffirming resolution is adopted, the commission shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the commission shall transmit its findings in writing, with the reasons therefor, to the Legislature.~~

~~(4) If the findings are that the conditions of subdivision (a) have been met, the commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and take appropriate action.~~

~~(5) To allow sufficient time for the Legislature to act, the reports of findings of the commission shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.~~

~~(c) As used in subdivision (a), "technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposition of high-level nuclear waste. Nothing in this section requires that facilities for the application of that technology or means be available at the time that the commission makes its findings. That disposition of high-level~~

~~nuclear waste does not preclude the possibility of an approved process for retrieval of the waste.~~

~~(d) The commission shall continue to receive and process notices of intention and applications for certification pursuant to this division but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals, or authorizations for the entry or use of the land, including orders of court, which may be required may be processed and granted by the governmental entity concerned, but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.~~

O